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United States  
Department of  
Agriculture

Farm and Foreign  
Agricultural  
Services

Farm Service  
Agency

Kansas City  
Commodity Office  
P.O. Box 419205  
Kansas City,  
Missouri  
64141-6205

AMENDMENT 2 TO  
ANNOUNCEMENT PCD4  
PURCHASE OF PASTEURIZED PROCESS AMERICAN CHEESE  
FOR USE IN DOMESTIC PROGRAMS

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The purpose of this amendment is to amend announcement PCD4, Amendment 1, issued on March 20, 2002, as follows:

- Revise Section 3.B. to update the browser requirements for the Domestic Electronic Bid Entry System (DEBES)
  - Revise Section 15.A. to update bill of lading requirements
  - Revise Appendix 2, Part 3, Section 3.1.A. to update pallet requirements.
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This amendment is effective for contracts awarded on or after date of issuance.

Announcement PCD4, as amended, can be printed in its entirety at the Commodity Operations website [www.fsa.usda.gov/daco/default.htm](http://www.fsa.usda.gov/daco/default.htm) under Dairy Announcements.

Although most of the changes are listed above, other language changes have been made. We urge you to read the Announcement and the appendixes to the Announcement carefully.

Any inquiries pertaining to this amendment should be directed to Judy Burton at (816) 926-2504.

/S/ George W. Aldaya

George W. Aldaya  
Director

Enclosures

**UNITED STATES  
DEPARTMENT OF  
AGRICULTURE**

**EFFECTIVE: MARCH 20, 2001**

**KANSAS CITY  
COMMODITY OFFICE  
P.O. BOX 419205  
KANSAS CITY, MO 64141-6205**

**ANNOUNCEMENT PCD4  
(SUPERSEDES PCD3)  
Purchase of Pasteurized Process  
American Cheese  
For Use in Domestic Programs**



**TABLE OF CONTENTS**  
**Pasteurized Process American Cheese**

	<u>Page</u>
1. GENERAL.....	1
2. ELIGIBILITY OF OFFERORS.....	2
3. SUBMISSION OF OFFERS .....	3
4. ACCEPTANCE OF OFFERS.....	4
5. RESPONSIBILITY AND PAST PERFORMANCE OF OFFEROR .....	5
6. PROVISIONS OF CONTRACT .....	5
7. NAICS CODE AND SMALL BUSINESS SIZE STANDARD .....	6
8. RESPONSES TO ILLEGAL OR IMPROPER ACTIVITY .....	6
9. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT.....	9
10. COMMODITY SPECIFICATIONS .....	10
11. QUALITY ASSURANCE .....	13
12. PACKAGING AND NET WEIGHT REQUIREMENTS .....	15
13. SHIPMENT AND DELIVERY .....	16
14. LIQUIDATED DAMAGES .....	17
15. INVOICES AND PAYMENT .....	17
16. INQUIRIES .....	19
CERTIFICATIONS, REPRESENTATIONS, AND WARRANTIES .....	APPENDIX 1
PACKAGING AND MARKING SPECIFICATIONS .....	APPENDIX 2



**ANNOUNCEMENT PCD4**  
**Purchase of Pasteurized Process American Cheese**  
**For Use in Domestic Programs**

**1. GENERAL**

A. Invitation for Offers

- (1) The United States Department of Agriculture (USDA) will from time to time issue an invitation for offers under this announcement to sell pasteurized process American cheese (hereinafter referred to as process cheese) or a blend of American cheeses and skim milk cheese (hereinafter referred to as blended cheese) to USDA for use in domestic programs.
- (2) The invitation will specify the office to which offers are to be submitted, the closing time for receipt of offers, and provisions applicable to the proposed procurement which are in addition to or different from those set forth herein.

B. Terms and Conditions

- (1) Provisions of "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," USDA-1, Revision No. 2, as amended (USDA-1), are incorporated as specified in Section 5 of this announcement.
- (2) Offerors are cautioned to read all terms and conditions of USDA-1, Total Quality Systems Audit (TQSA) Supplier Guidelines (applies to blended cheese only), this announcement, the appendixes to this announcement, and the invitation.

C. Certifications, Representations, and Warranties

Appendix 1 to this announcement contains certifications, representations, and warranties that must be certified and submitted annually to USDA prior to or with an offer. In addition to an annual submission, offerors must submit an updated Appendix 1 as changes in the certifications, representations, and warranties submitted to USDA occur throughout the year.

D. Packaging and Marking Specifications

Appendix 2 to this announcement contains the detailed packaging and marking specifications, and other requirements, as applicable to the product delivered under this announcement.

## **2. ELIGIBILITY OF OFFERORS**

To be eligible to submit an offer under this announcement, the offeror must:

- A. Submit a completed "Solicitation Mailing List Application" (Standard Form 129) to the contracting officer prior to a first offer. Complete all portions of the SF-129, except Item 18, and include the following additional information for:
  - (1) Item 8. Identify all affiliates including any parent company. Provide full name and main office address. A “parent” company is one that owns or controls the activities and basic business policies of the bidder. An “affiliate” is defined on the back of the form.
  - (2) Item 10. Identify the commodities/products the offeror is interested in supplying.
  - (3) Items 19 and 20. Must be an officer, owner, or partner of the company.
- B. Resubmit form SF-129 as necessary when the information requires updating.
- C. Affirmatively demonstrate responsibility as defined in Federal Acquisition Regulation (FAR) 9.104-1. USDA may request a pre-award survey for the purpose of evaluating the offeror’s ability to perform the contract.
- D. Meet the definitions of a nonmanufacturer or manufacturer as defined below:
  - (1) Manufacturer means a person that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
  - (2) Nonmanufacturer means a person that is primarily engaged in the wholesale or retail trade and normally sells the items being supplied to the general public; and will supply the end item of a small business manufacturer or processor made in the United States, or obtains a waiver of such requirement pursuant to 13 CFR 121.406.

- E. Maintain a bona fide business office in the United States for the purpose of selling to USDA the product described in the announcement. Additionally, the offeror must maintain an office, employee, or agent for service of process.
- F. Have a number of dairy plants, sufficient to produce the quantity offered, currently approved by Agricultural Marketing Service (AMS).
- G. Meet the requirements of the TQSA program for blended cheese only. Offerors shall only be allowed to offer from plants that have been audited under TQSA and have received a score of at least 80 points. However, a result of "0" in any element of the TQSA Report Form TQ-003 would preclude participation in the commodity programs until such time corrective action is implemented and verified as effective. (Element scoring: 0= one (or more) questions with a result of "0", or four or more questions with a result of "M". ) The Total Quality Systems Audit Suppliers Guidelines setting forth the TQSA requirements may be obtained at the Internet location: [www.fsa.usda.gov/pdd/tqsa.htm](http://www.fsa.usda.gov/pdd/tqsa.htm) or by contacting the appropriate contracting officer.

### 3. SUBMISSION OF OFFERS

#### A. How to Submit Offers

Offers, modifications, withdrawals of offers, and price adjustments shall be submitted through the Domestic Electronic Bid Entry system (DEBES) and received by the date and local time specified in the invitation for receipt of offers. The time of receipt will be determined and recorded by DEBES. Submission of the above by any means other than DEBES will be determined nonresponsive.

#### B. Computer Software Requirements

The offeror is responsible for choosing their own Internet Service Provider (ISP) to transmit, translate, or carry data between the offeror and this office. The offeror is responsible for the cost of its third-party network.

- (1) Operating system: Windows NT, windows 2000, or Windows XP (or equivalent)
  - ö.. (2) Browser requirement: Netscape versions greater than 4.07 and less than 6.0 (**OR**) Internet Explorer 5.0 or above. ..ö
    - (3) Encryption: Browser capable of handling 128-bit encryption.
    - (4) Proxy servers: Offerors must set up their proxy server to allow access to the Internet DEBES port.

#### C. Access to DEBES

- (1) Internet location is <http://pcsd.usda.gov/debes>

- (2) This office will provide the offeror with an ID number and the initial password needed to access DEBES.
- (3) USDA will not be responsible for any failure attributed to the transmission of the bid data prior to being accepted and stored on our web server including, but not limited to the following:
  - (a) Any failure of the offeror's computer hardware or software.
  - (b) Availability of your ISP.
  - (c) Delay in transmission due to the speed of your modem.
  - (d) Delay in transmission due to excessive volume of Internet traffic.
- (4) Price and mode of transportation offered for each state must be entered on DEBES offer form bid page. The Trans (transportation) Mode on the DEBES offer form bid page will default to truck. Offerors may select the rail or piggyback mode for each state if applicable. Quantities offered for each plant, product/pack size, and delivery periods must be entered on the constraints bid page. Certification answers must be entered on the certifications bid page.

D. Late Submission and Modifications

Any offer submitted to DEBES after the designated time specified for receipt in the invitation will not be considered. Notwithstanding the above, a late modification of an otherwise successful bid that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted. For the purpose of this announcement, USDA-1, Articles 6 and 7 are excluded.

E. Basis of Offer

Offers are invited f.o.b. destination. A single price shall be offered for each state. **THE USE OF OPEN VAN CARRIERS IS NOT ALLOWED. ..**

**4. ACCEPTANCE OF OFFERS**

- A. USDA will notify successful offerors on the date specified in the invitation. The date of acceptance by USDA will be the contract date.
- B. In addition to the price, factors considered in accepting offers will include the time of shipment, the total cost to the Government to deliver the product to the ultimate destination, and the responsibility of the offeror as demonstrated by prior contract performance.
- C. USDA may accept or reject any or all offers, or portions thereof.

## **5. RESPONSIBILITY AND PAST PERFORMANCE OF OFFEROR**

- A. Offerors are cautioned not to bid on product quantities exceeding a level that the offeror can reasonably expect to deliver in accordance with the contract schedule. Deliveries must be made during the contracted delivery period and no extensions will be granted due to weekends or Federal holidays. On-time delivery is imperative because this product is used in domestic food programs. Late deliveries cause serious and substantial damages to USDA and to other agencies that use this commodity. Contractors delivering late on contracts must immediately notify the contracting officer of late deliveries and how soon delivery can be expected.
- √..B. The offeror must certify to timely performance on current contracts on the DEBES certifications bid page. A determination that the late performance is beyond the control or negligence of the contractor will be made by the contracting officer prior to bid opening. An offeror may be deemed nonresponsible if the offeror is delivering late on contracts with USDA and the late delivery is not due to causes beyond the contractor=s control. This provision, as it pertains to small business, is a deviation from FAR 9.103(b) and Subpart 19.6. ..√

## **6. PROVISIONS OF CONTRACT**

- A. The contract consists of:
  - (1) Contractor's offer.
  - (2) USDA's acceptance.
  - (3) The applicable invitation.
- Ö.. (4) This announcement, including Appendixes 1-2. ..Ö
- (5) TQSA Supplier Guidelines (for blended cheese only).
- (6) USDA-1, except Articles 50 and 55 and all of Part E . Articles 56, 65 and 67 are applicable, except that contracts will be executed on a delivery basis. All words referring to “ship”, “shipping,” “shipments,” and “shipped” shall be “deliver,” “delivering,” “delivery(ies),” and “delivered.”
- B. If the provisions of USDA-1, TQSA Supplier Guidelines, and this announcement are not consistent, the provisions of this announcement will prevail. If the provisions of USDA-1, TQSA Supplier Guidelines, this announcement, and the invitation are not consistent, those of the invitation will prevail.
- C. No interpretation or amendment of this announcement is valid or enforceable unless such interpretation or amendment is in writing and executed by the contracting officer. No



other determination or opinion shall be a contract interpretation even if it came from another USDA official.

## **7. NAICS CODE AND SMALL BUSINESS SIZE STANDARD**

- A. The North American Industry Classification System (NAICS) code for this acquisition and the small business size standard is:

<b>COMMODITY</b>	<b>NAICS CODE</b>	<b>CORRESPONDING SIC CODE</b>	<b>SIZE STANDARD (EMPLOYEES)</b>
Process Cheese	311513	2022	500

- B. The small business size standard for a concern which submits an offer in its own name, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- C. The U.S. Small Business Administration (SBA) has implemented the Procurement Marketing and Access Network (PRO-Net). PRO-Net is a procurement related Internet-based electronic search engine for locating small, small disadvantaged, and women-owned small business sources. The PRO-Net Internet address (URL) is (<http://pro-net.sba.gov>). Companies that do not have access to the Internet may register for PRO-Net through your local SBA office. The PRO-Net is a free electronic gateway linked to the Commerce Business Daily, government agency home pages, and other sources of procurement opportunities.

## **8. RESPONSES TO ILLEGAL OR IMPROPER ACTIVITY**

- A. Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity

- (1) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may:
- (a) Cancel the solicitation, if the contract has not yet been awarded or issued.
- (b) Rescind the contract with respect to which:
- 1) The contractor or someone acting for the contractor has been

convicted for an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either:

- a) Exchanging the information covered by such subsections for anything of value.
  - b) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract.
- 2) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.
- (2) If the Government rescinds the contract under paragraph A. (1) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.
- (3) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

**B. Price or Fee Adjustment for Illegal or Improper Activity**

- (1) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph B. (2) of this clause if the head of the contracting activity or a designee determines that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.
- (2) The price or fee reduction referred to in paragraph B. (1) of this clause shall be:
- (a) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award.
  - (b) For cost-plus-incentive-fee-contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or “fee floor” specified in the contract.
  - (c) For cost-plus-award-fee contracts:
    - 1) The base fee established in the contract at the time of contract

award.

- 2) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the contractor for each award fee evaluation period or at each award fee determination point.

(d) For fixed-price-incentive contracts, the Government may:

- 1) Reduce both the contract target price and contract target profit by an amount equal to the initial target profit specified in the contract at the time of contract award.
- 2) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the contracting officer may defer such adjustment until establishment of the total final price of the contract. The total final prices established in accordance with the incentive price revision provisions of the contract award and such reduced price shall be the total final contract price.

(e) For firm-fixed-price contracts, 10 percent of the initial contract price or a profit amount determined by the contracting officer from records or documents in existence prior to the date of the contract award.

- (3) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph B. (2) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.
- (4) In addition to the remedies in paragraphs B. (1) and B. (3) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

## **9. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT**

- A. The Government suspends or debars contractors to protect the Government's interests. Contractors must not enter into any subcontract equal to, or in excess of, the small purchase limitation of \$25,000 with a contractor that has been debarred, suspended, or proposed for debarment unless the acquiring agency's head or designee determines there is a compelling reason for such action (FAR 9.405).
- B. The contractor will require each proposed first-tier subcontractor, whose subcontract shall exceed the small purchase limitation of \$25,000, to disclose to the contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- C. A corporate officer or a designee of the contractor must notify the contracting officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (See FAR 9.404 for information on The List of Parties Excluded from Federal Procurement Programs). The notice must include the following:
  - (1) The name of the subcontractor.
  - (2) The contractor's knowledge of the reasons for the subcontractor being on The List of Parties Excluded from Federal Procurement Programs.
  - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on The List of Parties Excluded from Federal Procurement Programs.
  - (4) The systems and procedures the contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

## **10. COMMODITY SPECIFICATIONS**

### **A. Domestic Origin**

- (1) The product delivered under this announcement must be produced in the United States from commodities produced in the United States.
- (2) For purposes of this section, the following definition applies:

"Produced in the United States" means manufactured, processed, mined, harvested, or otherwise prepared for sale or distribution, from components

originating in the United States. Components originating in the United States which have been exported, and subsequently imported back into the United States, will not be considered as having been produced in the United States.

- (3) The contractor must maintain records to verify that during the contract shipping period, at the point of packaging or, in the case of bulk commodities, at the point of delivery to USDA, the product was in compliance with the domestic origin requirements of this section of the announcement. (See Article 76 of USDA-1.)
- (4) USDA will randomly conduct domestic origin compliance reviews to determine if the product delivered to USDA was produced and manufactured in the U.S. from materials produced and manufactured in the U.S. Upon request, the contractor must submit documentation substantiating compliance to the contracting officer for review. This documentation may include procurement, production, inventory, delivery, and any other pertinent records. Onsite reviews may also be performed, at the discretion of USDA.

Ö.. B. Regulatory

Except as otherwise required by this announcement<sup>1</sup> or the applicable invitation, pasteurized process American cheese, including blended cheese, must comply with all regulations issued pursuant to the Federal Food, Drug, and Cosmetic Act, relevant to process cheese (21 CFR Parts 1-199), including Parts 133.169, as appropriate, for the pasteurized process American cheese specified in the offer accepted by USDA. ..Ö

C. Natural Cheeses Used in Processing

- (1) The natural cheese and skim milk for processing must have been manufactured in plants approved by the Dairy Grading Branch, Dairy Programs, Agricultural Marketing Service (AMS) from pasteurized, heat-treated, or raw milk produced in the United States. The cheese used for processing must not have been previously owned by CCC.
- (2) The process cheese or blended cheese must be made from commercial styles of cheddar cheese, cheddar cheese for manufacturing, Colby cheese, Colby cheese for manufacturing, granular (stirred curd) cheese, granular cheese for manufacturing, or any mixture of two or more of these cheeses. Blended cheese may use reduced fat cheddar cheese, skim milk, or skim milk cheese. The flavor of the cheese must be free of all flavor defects except feed, acid, and bitter which are permitted to a slight degree.

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<sup>1</sup> 21 CFR Section 133.169 (a)(1) skim milk cheese for manufacturing with an emulsifying agent may be used in the manufacturing of blended cheese as a nonstandardized product only.

- (3) Cheese trimmings from the cutting of natural cheese at AMS-approved cheese packaging operations may be used in the blend provided that satisfactory arrangements are made at the contractor's expense for unannounced AMS inspections to check and verify that:
  - (a) The kind of cheese and the cheese quality conforms to paragraphs C.(1) and (2) of this section.
  - (b) The trimmings are clean and free of mold, soft spots, etc.
- (4) When ready for grinding, the natural cheese or cheeses used to produce process cheese or blended cheese must be properly cleaned; free from all impurities, mold, rind rot, thick dry rind, paraffin, soft spots, cheese pests, and any objectionable surface flavor or condition which may detract from the quality of the finished product. The cheese must be pasteurized at a temperature of not less than 165 degrees Fahrenheit for a period of not less than 30 seconds.
- (5) Age of The Natural Cheese

Except for cheeses used in the processing of ribbon-sliced, the weighted average age of all the natural cheeses in a blend must be at least 20 days old or greater.
- (6) "Rework" Process Cheese

"Rework" process cheese, which was generated at the same plant from production runs intended for sale to USDA, may be used in the blend of natural cheeses in limited amounts so as to not adversely affect the finished product meeting the specifications in paragraph D of this section.
- (7) Subject to the provision of Articles 60 & 68 of USDA-1, product which deviates from the specifications of this contract will be rejected, or at the discretion of the contracting officer, accepted at discounts to be determined by USDA.

D. Product Age and Temperature Requirements

(1) Plant Requirements

The process cheese or blended cheese must be processed in plants which were approved by AMS prior to submission of offer and comply with Section 10. A of this Announcement

- (2) Process cheese and blended cheese must not be manufactured more than 60 days prior to delivery.
- (3) Process cheese or blended cheese (other than ribbon-sliced), immediately after filling and closing the containers, must be stored in such manner as to permit ample circulation of air between the individual packages to

effectuate rapid cooling. The temperature of the cheese must be cooled to 100 degrees Fahrenheit, or less, within 24 hours from the time the cheese is packaged. Immediately after the rapid cooling, the cheese must be further cooled to 60 degrees Fahrenheit, or lower prior to loading for shipment in accordance with shipping instructions, or placed in cooler space with an approximate temperature of 40 degrees Fahrenheit in order to reduce further the temperature of the cheese. At the time of delivery to USDA, the cheese must have a temperature of no higher than 60 degrees Fahrenheit.

- Ö.. (4) Ribbon-sliced process cheese or blended cheese must be stored immediately after packaging between 30 and 45 degrees Fahrenheit. ..Ö

E. Composition Requirements

Pasteurized process American cheese and blended cheese composition requirements shall comply with the following:

COMPOSITION	PROCESS CHEESE	BLENDED CHEESE
<b>Milkfat %</b>	Not less than 50% by weight of the solids	Range 14 –17% by total Weight
<b>Moisture %</b>	Not more than 40%*	Not more than 51%
<b>Salt %</b>	Not more than 2.0%	Not more than 2.7%
<b>pH Value</b>	Range 5.3 - 5.8	Range 5.4-5.8
*Cheese with moisture content exceeding 40 percent but no more than 40.3 percent may be accepted by USDA at a discount of \$.035 per pound. Cheese with moisture content of more than 40.3 percent will not be accepted by USDA.		

F. Physical Analysis

Pasteurized process American cheese and blended cheese physical analysis requirements shall comply with the following:

<b>PASTEURIZED PROCESS AMERICAN CHEESE AND BLENDED CHEESE</b>				
<b>ITEM</b>	<b>FLAVOR</b>	<b>BODY &amp; TEXTURE</b>	<b>COLOR</b>	<b>MELTABILITY</b>
<b>Loaves</b>	Its flavor must be pleasing and characteristic of process cheese made from mild to medium-cured American cheese, and must be free from undesirable flavors and odors.	The body must be smooth, medium firm, resilient, and free of pinholes, crystals or openings except those caused by trapped steam. Its texture must be close and free from lumps, graininess, or uncooked particles, must slice freely, show not more than slight brittleness or roughness, and the cheese must not stick to the knife or break when cut into approximately 1/8-inch slices. Ribbon-sliced cheese must contain 160 half-ounce slices. The slices must be staggered stacked and must easily separate from the stack.	The process cheese must have a uniform medium yellow color and an attractive sheen. No visible signs of mold shall be permitted.	The cheese must have been tested for meltability in accordance with AMS Methods of Laboratory Analysis, DA Instruction No. 918-RL, section D. 1.j, and must be at Number 3 or higher.
<b>Slices</b>				
<b>Blended Cheese Slices</b>				

G. Liability

The contractor will be liable for losses due to excessive deterioration, mold development, or spoilage, which are discovered within 180 days of the date of delivery to USDA, in accordance with the provisions of Article 61 of USDA-1.

**11. QUALITY ASSURANCE**

A. Contractor must use the following:

- (1) For process cheese, the inspection required by Article 54 of USDA-1 will be performed by AMS. All processing operations must be under continuous inspection by AMS. Subject to Article 54(o) of USDA-1, the quality, date(s) of



manufacture, and weight of the process cheese will be evidenced by grading certificates issued by AMS.

The meltability, percentage of moisture, milkfat, salt and pH value will be evidenced by certificates issued by AMS or an independent commercial laboratory using AOAC International approved methodology. Procedures and a schedule of fees for inspection services may be obtained by contacting:

Dairy Grading Branch  
Dairy Programs, AMS  
Building A, Suite 370  
800 Roosevelt Road  
Glen Ellyn, Illinois 60137

If the process cheese fails to meet contract specifications on one or more factors on the first inspection, the contractor may arrange with AMS for subsequent inspections of the cheese. The inspections may be conducted at origin or a subsequent point of delivery if the provisions of Title 7 CFR ' 58.22 through ' 58.32 issued under the Agricultural Marketing Act of 1946, as amended, with respect to retest, appeal, and new inspections can be met. At the option of the contractor, rejected lots may be reworked including correcting packaging deficiencies and removing unsatisfactory containers, and such reworked lots may be resubmitted for AMS inspection. When subsequent inspections of the cheese are made, the results of the last inspection will be used as the basis for payment under the contract.

Examination and certification of the cheese by AMS does not relieve contractor of its responsibility to deliver cheese which complies with all contractual and specification requirements.

- (2) For blended cheese, contractors are not required to have AMS inspection but shall provide product under the TQSA program. The contractor must perform the product testing and quality analysis to ensure that the product meets the specifications described in Section 10. The results must be evidenced by a Certificate of Analysis. The contractor must retain the Certificate of Analysis and furnish a copy to USDA in the invoice package. The meltability, percentage of moisture, milkfat, salt and pH value will be evidenced by certificates issued by AMS, an independent commercial laboratory using AOAC International approved methodology, or contractor's TQSA compliant laboratory. The quality, date(s) of manufacture, and weight of the process cheese will be evidenced by grading certificates issued by the contractor.

The TQSA program is a method of contractor verification and shall not relieve contractors of their responsibility to deliver a product which complies with all contractual and specification requirements.

If the contractor becomes TQSA non-compliant after contract is awarded and through execution of contract, the contacting officer may terminate contract for default.

- B. Contractors for both process and blended cheese are required to notify KCCO immediately of lots that fail to meet contract requirements.
- C. Notwithstanding Article 56(b) of USDA-1, the contractor may ship the cheese prior to receipt of the commodity testing and analysis results. In this event, contractor assumes all risks and liabilities which arise with respect to the failure of the shipped process cheese or blended cheese to meet contract specifications.

## **12. PACKAGING AND NET WEIGHT REQUIREMENTS**

- A. The cheese must be packaged in 5-pound loaves, 5-pound ribbon-sliced loaves, or 2-pound loaves, whichever is stated in the offer accepted by USDA. Shipping containers must be packed with 6/5-pound loaves, or 12/2-pound loaves, whichever is applicable. The cheese must be packaged in accordance with the specifications set forth in Appendix 2 of this announcement.
- B. Individual shipping containers packed with 6/5-pound packs of cheese must weigh not less than 29.85 pounds net weight. Individual shipping containers packed with 12/2-pound packs must weigh not less than 23.88 pounds net weight. The total net weight of all shipping containers test weighed by AMS from a lot must not vary more than one-tenth (.1) of one percent under the aggregate marked net weight of all shipping containers within the lot.
- C. Discounts For Test Weight Shortages
  - (1) Any lot of cheese with test weight shortage in excess of one-tenth (.1) of one percent, but not more than four-tenths (.4) of one percent, under the marked net weight of all shipping containers within the lot, will be accepted by USDA at the following specified discounts below the contract price:

<b>DISCOUNTS FOR TEST WEIGHT SHORTAGE</b>	
<b>Percentage Of Test Weight Shortage</b>	<b>Discount Per Lot</b>
Greater than .1% up to and including .2%	\$25.00
Greater than .2% up to and including .3%	\$50.00
Greater than .3% up to and including .4%	\$75.00

- (2) Any lot with test weight shortage in excess of four-tenths (.4) of one percent of the aggregate marked net weight of all shipping containers within the lot will be rejected, or at the discretion of the contracting officer, accepted at discounts to be determined by USDA.
- (3) In addition to the discounts specified above, individual shipping containers of cheese included in the sample test weighed in a lot which do not meet the minimum net weight requirements as specified in paragraph B of this section will result in discounts by USDA of \$10 for the first shipping container and \$5 for each additional shipping container.
- D. An amendment will not be required to reduce the contract quantity to reflect the aggregate of test weight shortages.

### 13. SHIPMENT AND DELIVERY

- A. Shipment and delivery must be made in accordance with this announcement and Articles 56 and 64 of USDA-1.
- B. Title and risk of loss will pass to USDA on the date of delivery, as evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to USDA.
- C. The quantity of the product delivered in good condition must be evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to USDA, and such document must be retained by the contractor.
- D. Contractors are required to make **TWO** notifications for each shipment (See Article 56(c) of USDA-1):
  - (1) The State Agency, "Consign To" party shown on the Notice to Deliver (N/D), must be **FAXED** on the day of shipment.
  - (2) The receiving warehouse, "Care Of" party shown on the N/D, must be called 24 hours in advance to schedule an unloading appointment. (This is not required for rail shipments.) Contractors must notify the contracting officer in advance if shipments will not be made by the final shipment date under the contract, in accordance with Article 67(a) of USDA-1.
- E. Consignees may request upgrading of delivery service; for example, delivery within the doors of the consignee's premises or to a specific room within a building. Contractors are alerted that such delivery terms are beyond contractual requirements. If an upgrade of delivery services is

requested and agreed to, additional charges must be billed to the party requesting the service.

#### **14. LIQUIDATED DAMAGES**

A. Compensation to Contractor for Late Issuance of Notice to Deliver

Liquidated damages for delay in shipment due to late issuance of "Notice to Deliver" (KC-269), will be payable in accordance with Article 65 of USDA-1, and will be at the rate of \$0.45 per 100 pounds (net weight) per day.

B. Compensation to USDA for Delay in Delivery

Liquidated damages for delay in shipment will be payable in accordance with Article 67 of USDA-1, and will be at the rate of \$0.45 per 100 pounds (net weight) per day.

#### **15. INVOICES AND PAYMENT**

A. Invoicing and payment will be handled in accordance with Article 70 of USDA-1, except that a properly prepared invoice package must include the following supporting documents:

- (1) A signed and dated Form KC-269 (reverse side) which includes the "Contractor's Invoice Certification" evidencing the date of delivery and quantity (units) delivered in good condition, OR
- (2) A signed and dated commercial invoice evidencing the date of delivery and quantity (units) delivered in good condition which must include the following statement (either as a part of the commercial invoice or an attachment to):

"Contractor's Invoice Certification"

"I certify that this invoice presented for payment is true. This certification is executed with full knowledge of the provision of the 15 U.S.C. 714m(a), which provides a fine of not to exceed \$10,000 or imprisonment of not more than five years or both, for making any statement knowing it to be false, for the purpose of influencing in any way the action of the United States Department of Agriculture, and with full knowledge of the provisions of 31 U.S.C. 3729 imposing civil liability upon any person who shall make or cause to be made a false, fictitious, or fraudulent claim against the United States."

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

- Ö.. (3) Information required on the Bill of Lading. In addition to the information required by form KC-277, Notice to Deliver Transmittal and Instructions, the commercial bill of lading must show: 1) The manufacturer's lot code/lot identification number, and 2) the statement, "FOR USDA FOOD DISTRIBUTION PROGRAMS." ..Ö
- (4) For process cheese, USDA original commodity inspection certificate or cheese graders memorandum, and Certificate of Analysis issued by an AMS laboratory, independent commercial laboratory or contractor's TQSA compliant laboratory.
- (5) For blended cheese, the contractors commodity inspection certificate, and Certificate of Analysis issued by an AMS laboratory, independent commercial laboratory or contractor's TQSA compliant laboratory.
- (6) Quality, weight, and laboratory results that do not meet specifications as required in Section 10, Commodity Specifications, must be asterisked on the Certificate of Analysis submitted with the invoice package.
- (7) If the contractor does not complete a "Contractor's Invoice Certification," then proof of delivery as evidenced by one or more of the following documents will be required as a part of the invoice package:
- Ö.. (a) A copy of the bill of lading, signed and dated by the recipient. ..Ö
- (b) A copy of the commercial receipt evidencing delivery signed and dated by the recipient.

Invoices must be mailed to:

Kansas City Finance Office  
Financial Operations Division, Payment Certification Branch  
Stop Code 8578  
P.O. Box 419205  
Kansas City, MO 64141-6205

- B. The Debt Collection Improvement Act of 1996 amended 31 U.S.C. 3332 to require Federal agencies to convert all Federal payments from checks to electronic fund transfers. Payments may be made directly to a financial banking institution. To receive payments electronically, Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form must be completed. If you have questions or would like this form mailed to you, contact Financial Operations Division, Payment Certification Branch.

16. **INQUIRIES**

Inquiries pertaining to USDA-1 and this announcement should be directed to:

Kansas City Commodity Office  
Dairy and Domestic Operations Division  
P.O. Box 419205  
Kansas City, MO 64141-6205  
816-926-6050

/S/ George W. Aldaya

George W. Aldaya  
Director

UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

EFFECTIVE: January 1, 2004

KANSAS CITY  
COMMODITY OFFICE  
P.O. BOX 419205  
KANSAS CITY, MO 64141-6205

## **APPENDIX 1**

# **Representations, Certifications, and Other Statements of Offerors or Respondents for**

## **DAIRY COMMODITY PROCUREMENTS**

<http://www.fsa.usda.gov/daco/Announcement/dairy/Appendix1.pdf>



UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

KANSAS CITY  
COMMODITY OFFICE  
P.O. BOX 419205  
KANSAS CITY, MO 64141-6205

EFFECTIVE: MARCH 20, 2001

## **APPENDIX 2**

# **Packaging and Marking Specifications**

### **ANNOUNCEMENT PCD4**

### **Purchase of**

### **Pasteurized Process**

### **American Cheese**

### **For Use in Domestic Programs**





**TABLE OF CONTENTS**  
**Appendix 2**

	<u><b>Page</b></u>
<b>PART 1. BASIC PROVISIONS.....</b>	<b>1</b>
<b>1.1    PURPOSE.....</b>	<b>1</b>
<b>1.2    USDA RESPONSIBILITIES .....</b>	<b>1</b>
<b>1.3    LIABILITY .....</b>	<b>1</b>
<b>1.4    COMMERCIAL PACKAGING SPECIFICATIONS.....</b>	<b>1</b>
<b>PART 2. GENERAL REQUIREMENTS.....</b>	<b>2</b>
<b>2.1    CONTAINERS AND MATERIALS .....</b>	<b>2</b>
<b>PART 3. CONTAINER AND PACKAGING REQUIREMENTS .....</b>	<b>3</b>
<b>3.1    UNITIZATION REQUIREMENT.....</b>	<b>3</b>
<b>PART 4. MARKING REQUIREMENTS.....</b>	<b>4</b>
<b>4.1    MARKING SPECIFICATIONS .....</b>	<b>4</b>
<b>4.2    MONTH/YEAR PACK .....</b>	<b>4</b>
<b>4.3    LOT CODE/CERTIFICATE NUMBER.....</b>	<b>4</b>
<b>4.4    KOSHER CERTIFICATION.....</b>	<b>4</b>

**APPENDIX 2 TO ANNOUNCEMENT PCD4  
PURCHASE OF PASTEURIZED PROCESS AMERICAN CHEESE  
FOR USE IN DOMESTIC PROGRAMS**

**Packaging and Marking Specifications**

**PART 1. BASIC PROVISIONS**

**1.1 PURPOSE**

- A. This appendix outlines the packaging and marking requirements, container specifications, and procedures for the approval of containers and packaging materials used in shipments of pasteurized process American cheese or blended cheese under the domestic food distribution programs.
- B. Changes to this appendix will be issued periodically in the form of amendments to the announcement. Contractors are advised to ensure that all subcontractors, e.g., container and packaging material manufacturers, are familiar with the requirements on a contract-by-contract basis.

**1.2 USDA RESPONSIBILITIES**

- A. The Deputy Administrator, Commodity Operations (DACO), USDA-Farm Service Agency (FSA), Washington, D.C., is responsible for approving the use of all containers and packaging materials.
- B. The Kansas City Commodity Office (KCCO) is responsible for accepting or rejecting commodities, containers, and packaging materials on a contract-by-contract basis.

**1.3 LIABILITY**

In accordance with Article 60 of USDA-1, USDA's contractor will be liable if containers or packaging materials do not meet contract requirements.

**Ö.1.4 COMMERCIAL PACKAGING SPECIFICATIONS**

The primary and secondary packaging materials and shipping containers must be of a type normally utilized in commercial channels. All closures and sealing methods must be in accordance with good commercial practice...√

## **PART 2. GENERAL REQUIREMENTS**

### **2.1 CONTAINERS AND MATERIALS**

Ö.. A. Unless otherwise specified, all containers and packaging materials must be:

- (1) New and made of components and by processes which will not impart an odor, flavor, color, or other objectionable characteristic to the product being packaged.
- (2) Constructed to meet the requirements of the Food and Drug Administration (FDA) for safe contact with the packaged product.
- (3) Constructed from the maximum amount of recycled materials practicable without jeopardizing performance or food safety. ..Ö

B. All containers and packaging materials must be manufactured and assembled in the United States. The components that make up the fabricating materials of the containers and packaging materials must be of U.S. origin to the extent that they are commercially available. Questions concerning the availability of a material should be directed to:

USDA/FSA/DACO/PDD  
Contract Management Branch  
STOP 0551  
1400 Independence Avenue SW  
Washington, D.C. 20250-0551  
ATTN: Packaging

- C. The contractor must maintain records to verify that during the contract delivery period, at the point of packaging, the containers and packaging materials were in compliance with paragraph 2.1.B. See Article 76 of USDA-1.
- D. Filled containers must be safe for individuals coming in contact with them during handling, stacking, and storage operations.
- E. The weight capacity of a container, e.g., 5-pound carton, is defined as a container designed to hold 5 pounds of the commodity.

## **PART 3. CONTAINER AND PACKAGING REQUIREMENT**

### **3.1 UNITIZATION REQUIREMENT**

Unless otherwise specified by USDA, all shipments of packaged products must be unitized (palletized and stretch wrapped) as follows:

**A. Pallets must be:**

- (1) Constructed to facilitate the safe handling, stacking, and transportation of the packaged product, as a unit, without loss or damage.
- Ö.. (2) 48 x 40 inches, four-way, Number 2, reversible flush stringer with no broken runners or slats. ..Ö
- (3) Suitable for use in the shipment of food products.

**B. Plastic stretch wrap must be:**

- (1) Constructed of a plastic film which is to be stretched a minimum of 50 percent beyond its original length when stretched around the pallet load.
- (2) Applied as tightly as possible around all tiers of the palletized shipping containers. The shipping containers must be held firmly in place by the stretch wrap.

**C. Pallet loads must be:**

- (1) Stacked in such a way as to minimize the amount that shipping containers overhang the edges of pallets. (While shipping containers may overhang the edges of pallets, contractors are reminded that they are responsible for the safe shipment and delivery of the product.)
- (2) Blocked and braced or otherwise loaded into the conveyance in a manner that prevents shifting during transit.

## **PART 4. MARKING REQUIREMENTS**

### **Ö.4.1 MARKING SPECIFICATIONS**

- A. The marking and labeling must be in accordance with good commercial practices.
- B. At contractor's option a statement such as "NOT FOR RETAIL SALE" may be printed on the principal display panel of the food label.
- C. All packaging and labeling must be in accordance with all applicable provisions of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the Nutrition Labeling and Education Act of 1990.
- D. A company name or brand must be shown on all shipping containers. ..✓

### **Ö.4.2 MONTH/YEAR PACK**

- A. The month/year of pack must be shown on all shipping containers.
- B. A date fill code may be applied in addition to, but not in lieu of, the month/year of pack. ..✓

### **Ö.4.3 LOT CODE/CERTIFICATE NUMBER**

A lot code or official USDA inspection certificate number must be legibly marked on all primary shipping containers. Contractors may use any type of lot coding system, provided, it can identify the day of production in the contractor's records. If Contractors use AMS inspection services, Contractor must provide AMS with an explanation of the lot coding system utilized. ..Ö

### **4.4 KOSHER CERTIFICATION**

"Kosher Only" products will be identified in the invitation. Offerors must not bid on these products unless they are properly certified to produce Kosher products. If an offeror bids on products identified as "Kosher Only", they shall provide a letter to the consignee certifying compliance with applicable Kosher dietary laws.